

Questions & Answers

(Taken from Conference Call with CMS representatives on 8/29/07)

Re: Tamper-resistant Prescription Pads Effective 10/1/07 for Medicaid

- ✓ Will facility-based prescriptions, which stay in the facility, have exceptions to the tamper-resistant (T-R) requirements?
No, there will not be an exception for written prescriptions staying in a facility. If the prescription is reimbursable by Medicaid, then a T-R pad is needed.
- ✓ Many facilities use computer printer paper for their prescriptions – will they be exempt?
No, there are many vendors selling computer printer paper that is compliant with the T-R law.
- ✓ If a patient in a long-term care facility has a telephone order transcribed by the nurse and it is given directly to the pharmacy (for example, given to a driver to give back to the pharmacy), does it need to be on a T-R pad?
Yes. If the nurse called it in or faxed it to the pharmacy, then no. Yes, only if it's written and then taken to the pharmacy.
 - Will there be any further guidance on the definition of “industry recognized standards?”
No, however, you can look at the eleven states that already have T-R requirements in place, since those states have defined industry recognized standards. The 11 states are California, Florida, Georgia, Idaho, Indiana, Kentucky, Maine, New Jersey, New York, Texas and Wyoming. CMS will send out contact information for those states to the Program Integrity directors of each state.
- ✓ Who will be held accountable in the audits by DMS or other agencies?
The pharmacies will be.
- ✓ Can a pharmacy call the prescriber and make a non-compliant hand-written prescription acceptable by getting a telephone order instead?
Yes.
- ✓ What is each state's responsibility/role?
It is up to each state to establish its own guidance for compliance and auditing.
- ✓ Can CMS provide a list of authorized vendors for the T-R pads?
No. CMS will not be providing a list of vendors.
- ✓ Are managed care organizations exempt from this rule?
Yes, when a managed care entity pays for the medication, the requirements do not apply.

- ✓ If a patient has other insurance and Medicaid is secondary or greater, are they exempt?
No. If Medicaid pays for any portion of the medication they have to comply with the T-R pad requirements.
- ✓ Is a drug order exempt?
If the medication is ordered for a Medicaid patient by a prescriber, it is considered to be a prescription and will need to meet the compliance requirements.
- ✓ If a patient presents the pharmacy with a CII prescription on a non-compliant pad, can the pharmacy call the doctor and get a telephone order to correct the prescription and make it compliant?
No. It's a CII prescription, which cannot be called in to a pharmacy.
- ✓ If a patient presents a prescription to a pharmacy and on the second fill gets in a dispute with the pharmacist, in some states the patient is allowed to get a copy of the prescription back from the pharmacy and go to another pharmacy for filling. Is this prescription now exempt?
No. It needs to be presented to the new pharmacy on a T-R pad.
- ✓ What about retro-eligibility for Medicaid? If a member has a prescription filled and later becomes Medicaid eligible for that date of service, is that situation exempt?
No. CMS firmly maintains that if Medicaid is expected or asked to pay any portion of the cost, then the pharmacy will have to go back and get a compliant prescription.
- ✓ What about clinics (such as FQHC's, RHC's, etc.) that have pharmacies on-site? Does the prescription have to be on T-R paper?
Yes, if it is put in writing at any point along the way. If the MD/NP calls it in to their in-house pharmacy, or faxes it to them, then no T-R paper is necessary. But if a prescription is written and given to a patient to take down to the in-house pharmacy to fill, it MUST be on T-R paper.
- ✓ What about "med order forms" from a LTC facility to a pharmacy?
If drugs fall under 1027(k)(3), or other applicable sections of the SSA mentioned in the 8/17/07 letter to State Medicaid Directors and Medicaid pays for them separately, then the prescription must be on T-R paper. It was suggested that each state get their own attorneys to provide an interpretation for them.
- ✓ What are the "other specified institutions and clinical settings" mentioned in the 8/17/07 letter to State Medicaid Directors? How are they defined?
It was suggested that each state gets their own attorneys to look at the applicable statutes, which do have a list of these entities.
- ✓ What is the definition of a "managed care entity" that would be exempt from these requirements? Does a PCCM program qualify for an exemption?
It was suggested that a PCCM program does not qualify, and each state should have their own attorneys look at Section 1903(i) of the SSA and provide them with an interpretation.